

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ADVANCED SYSTEMS CONSULTANTS, )  
INC., )

Plaintiff, )

vs. )

THE PRUDENTIAL INSURANCE )  
COMPANY OF AMERICA, a )  
New Jersey corporation, )

Defendant. )

FILED

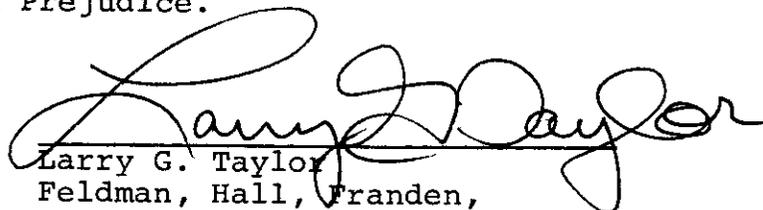
JUN 10 1987

Jack C. Sweet, Clerk  
U. S. DISTRICT COURT

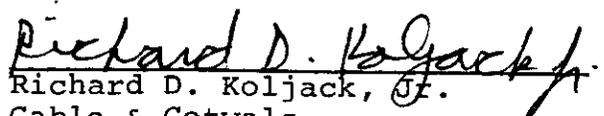
No. 86-C-1094-B

STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, all parties in the above-styled case hereby file this Stipulation of Dismissal with Prejudice.



Larry G. Taylor  
Feldman, Hall, Franden,  
Woodard & Farris  
Park Centre, Suite 1400  
525 South Main  
Tulsa, Oklahoma 74103-4409



Richard D. Koljack, Jr.  
Gable & Gotwals  
2000 Fourth National Bank Bldg.  
Tulsa, Oklahoma 74119

EXHIBIT "C" E D

JUN 10 1986

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ROY T. RIMMER, JR., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 MERIDIAN ENERGY, INC., ENTERPRISE )  
 DEVELOPMENT, LTD., LINCOLN GAS, )  
 and HALE C. LAY, )  
 )  
 Defendants. )

Case No. 85-C-1090-E

O R D E R

NOW on this 16<sup>th</sup> day of June, 1986, the same being a regular day of the District Court, this cause comes on to be heard upon the motion of the Defendants, Hale C. Lay, Enterprise Development, Ltd., Lincoln Gas and Meridian Energy, Inc. to dismiss with prejudice each and all of Plaintiff's causes of action against each and all of the Defendants herein and to dismiss with prejudice each and all of Defendants' causes of action against the Plaintiff herein, on the grounds that Plaintiff does not have standing or capacity to continue this action. Upon reviewing the record, and the stipulations of the parties hereto, this Court finds that Plaintiff does not have standing or capacity to continue this action, and that, therefore, his causes of action should be dismissed with prejudice; and this Court further finds that the Defendants above have stipulated to a dismissal with prejudice of any and all counterclaims asserted herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that each and all of the allegations, averments, claims, demands and causes of action of any kind and nature of the Plaintiff herein are hereby dismissed with prejudice against each and all of the Defendants herein and that each and all of the allegations, averments, claims, demands, and causes of action of any kind and nature of the Defendants herein are hereby dismissed with prejudice against the Plaintiff herein.

  
THE HONORABLE JAMES O. ELLISON  
JUDGE OF THE UNITED STATES  
DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

United States District Court )  
Northern District of Oklahoma) ss  
I hereby certify that the foregoing  
is a true copy of the original on file  
in this Court.

Jack C. Silver, Clerk  
By-----  
Deputy

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -9 1987

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

CITIES SERVICE OIL AND GAS  
CORPORATION, a Delaware  
corporation,

Plaintiff,

v.

INTERNORTH, INC., a  
Delaware corporation,

Defendant.

No. 85-C-604-E

OXY PETROLEUM, INC., a  
California corporation,

Plaintiff,

v.

INTERNORTH, INC.,

Defendant.

No. 85-C-606-E

CITIES SERVICE OIL AND GAS  
CORPORATION,

Plaintiff,

v.

INTERNORTH, INC.,

Defendant.

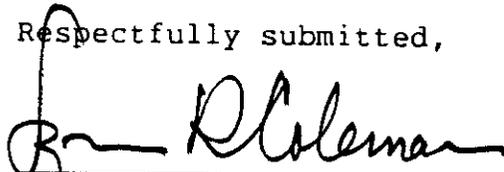
No. 85-C-607-E

NOTIFICATION OF SETTLEMENT  
AND DISMISSAL WITH PREJUDICE

Pursuant to this Court's Orders dated May 26,  
1987, Plaintiffs Cities Service Oil and Gas Corporation

and Oxy Petroleum, Inc. hereby inform the Court that the above-referenced actions have been fully settled. Accordingly, these actions should be dismissed with prejudice. Defendant InterNorth, Inc. has authorized the undersigned to represent that it concurs in this pleading.

Respectfully submitted,



---

Lynn R. Coleman  
Richard L. Brusca  
Skadden, Arps, Slate,  
Meagher & Flom  
919 18th Street, N.W.  
Washington, D.C. 20006



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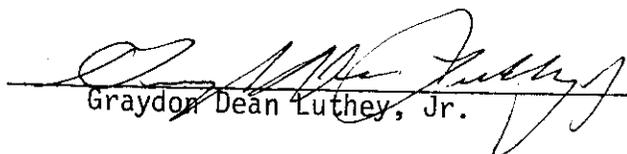
Graydon Dean Luthéy, Jr.  
Jones, Givens, Gotcher,  
Doyle & Bogan, Inc.  
201 W. 5th Street, Suite 400  
Tulsa, Oklahoma 74103

ATTORNEYS FOR PLAINTIFFS  
COUNTERCLAIM DEFENDANTS  
Cities Service Oil and Gas  
Corporation and Oxy  
Petroleum, Inc.

Dated: June 9, 1987.

CERTIFICATE OF MAILING

On this 9<sup>th</sup> day of June, 1987, I hereby certify that a true and correct copy of the foregoing instrument was mailed to James C. Lang, Sneed, Lang, Adams, Hamilton, Downie & Barnett, Sixth Floor, 114 East Eighth Street, Tulsa, Oklahoma 74119 and to Miller, Keeton, Bristow & Brown, 3900 Two Houston Center, Houston, Texas 77010, attorneys for defendants herein.

  
Graydon Dean Luthey, Jr.

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUN -9 1987

JACK O. BRYER, CLERK  
U.S. DISTRICT COURT

CITIES SERVICE OIL AND GAS CORPORATION, a Delaware corporation,  
 Plaintiff,  
 v.  
 INTERNORTH, INC., a Delaware corporation,  
 Defendant.  
 -----  
 OXY PETROLEUM, INC., a California corporation,  
 Plaintiff,  
 v.  
 INTERNORTH, INC.,  
 Defendant.  
 -----  
 CITIES SERVICE OIL AND GAS CORPORATION,  
 Plaintiff,  
 v.  
 INTERNORTH, INC.,  
 Defendant.

No. 85-C-604-E

No. 85-C-606-E

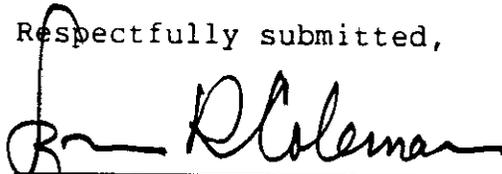
No. 85-C-607-E

NOTIFICATION OF SETTLEMENT  
AND DISMISSAL WITH PREJUDICE

Pursuant to this Court's Orders dated May 26, 1987, Plaintiffs Cities Service Oil and Gas Corporation

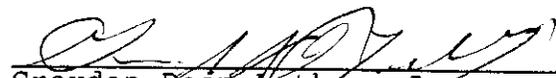
and Oxy Petroleum, Inc. hereby inform the Court that the above-referenced actions have been fully settled. Accordingly, these actions should be dismissed with prejudice. Defendant InterNorth, Inc. has authorized the undersigned to represent that it concurs in this pleading.

Respectfully submitted,



---

Lynn R. Coleman  
Richard L. Brusca  
Skadden, Arps, Slate,  
Meagher & Flom  
919 18th Street, N.W.  
Washington, D.C. 20006



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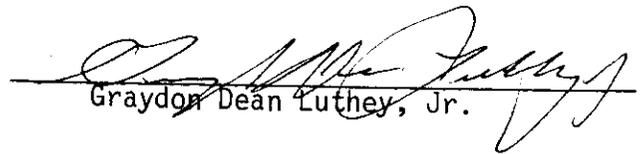
Graydon Dean Luthy, Jr.  
Jones, Givens, Gotcher,  
Doyle & Bogan, Inc.  
201 W. 5th Street, Suite 400  
Tulsa, Oklahoma 74103

ATTORNEYS FOR PLAINTIFFS  
COUNTERCLAIM DEFENDANTS  
Cities Service Oil and Gas  
Corporation and Oxy  
Petroleum, Inc.

Dated: June 9, 1987.

CERTIFICATE OF MAILING

On this 9<sup>th</sup> day of June, 1987, I hereby certify that a true and correct copy of the foregoing instrument was mailed to James C. Lang, Sneed, Lang, Adams, Hamilton, Downie & Barnett, Sixth Floor, 114 East Eighth Street, Tulsa, Oklahoma 74119 and to Miller, Keeton, Bristow & Brown, 3900 Two Houston Center, Houston, Texas 77010, attorneys for defendants herein.

  
\_\_\_\_\_  
Graydon Dean Luthey, Jr.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

TRAVIS JEROME BROOKS, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 OTTAWA COUNTY SHERIFF, )  
 )  
 Defendant. )

86-C-59 **FILED**

**JUN 9 - 1987**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed May 15, 1987, in which the Magistrate recommended that this case be dismissed without prejudice. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that, upon agreement of the parties, this case is dismissed without prejudice.

Dated this 9 day of June, 1987.

  
H. DALE COOK, CHIEF  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -9 1987

CLERK OF DISTRICT COURT

CITIES SERVICE OIL AND GAS  
CORPORATION, a Delaware  
corporation,

Plaintiff,

v.

INTERNORTH, INC., a  
Delaware corporation,

Defendant.

No. 85-C-604-E

OXY PETROLEUM, INC., a  
California corporation,

Plaintiff,

v.

INTERNORTH, INC.,

Defendant.

No. 85-C-606-E

CITIES SERVICE OIL AND GAS  
CORPORATION,

Plaintiff,

v.

INTERNORTH, INC.,

Defendant.

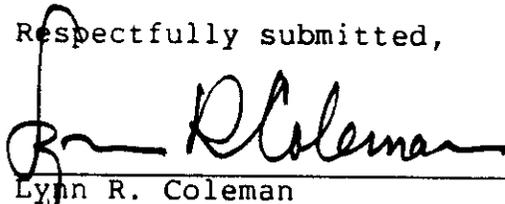
No. 85-C-607-E

NOTIFICATION OF SETTLEMENT  
AND DISMISSAL WITH PREJUDICE

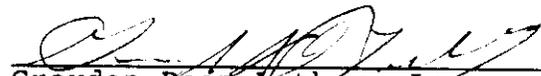
Pursuant to this Court's Orders dated May 26,  
1987, Plaintiffs Cities Service Oil and Gas Corporation

and Oxy Petroleum, Inc. hereby inform the Court that the above-referenced actions have been fully settled. Accordingly, these actions should be dismissed with prejudice. Defendant InterNorth, Inc. has authorized the undersigned to represent that it concurs in this pleading.

Respectfully submitted,



Lynn R. Coleman  
Richard L. Brusca  
Skadden, Arps, Slate,  
Meagher & Flom  
919 18th Street, N.W.  
Washington, D.C. 20006



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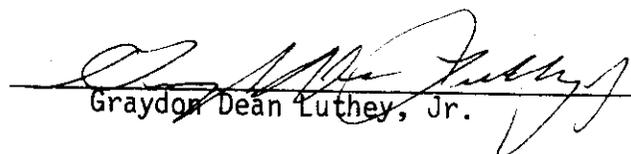
Graydon Dean Kuthey, Jr.  
Jones, Givens, Gotcher,  
Doyle & Bogan, Inc.  
201 W. 5th Street, Suite 400  
Tulsa, Oklahoma 74103

ATTORNEYS FOR PLAINTIFFS  
COUNTERCLAIM DEFENDANTS  
Cities Service Oil and Gas  
Corporation and Oxy  
Petroleum, Inc.

Dated: June 9, 1987.

CERTIFICATE OF MAILING

On this 9<sup>th</sup> day of June, 1987, I hereby certify that a true and correct copy of the foregoing instrument was mailed to James C. Lang, Sneed, Lang, Adams, Hamilton, Downie & Barnett, Sixth Floor, 114 East Eighth Street, Tulsa, Oklahoma 74119 and to Miller, Keeton, Bristow & Brown, 3900 Two Houston Center, Houston, Texas 77010, attorneys for defendants herein.

  
Graydon Dean Luthey, Jr.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

ALBERT LEVON BURTON and )  
WILLIAM DEWAYNE JONES, )  
 )  
Petitioners, )  
 )  
v. )  
 )  
WARDEN THOMAS WHITE, C.C.C., )  
and THE ATTORNEY GENERAL OF )  
THE STATE OF OKLAHOMA, )  
 )  
Respondents. )

87-C-137-C

FILED

JUN 9 - 1987

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER

The Court has for consideration the Report and Recommendation of the Magistrate filed May 15, 1987, in which the Magistrate recommended that petitioners' application for a writ of habeas corpus be dismissed. No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the Magistrate should be and hereby is affirmed.

It is therefore Ordered that petitioners' application for a writ of habeas corpus pursuant to 28 U.S.C. §2254 is dismissed.

Dated this 9 day of June, 1987.

  
H. DALE COOK, CHIEF  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -9 1987

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

TIMOTHY LEE NIPPER,  
Plaintiff,

v.

INTERNAL REVENUE SERVICE  
Defendant.

)  
)  
)  
)  
) CIVIL NO. 86-C-1049E  
)  
)  
)

STIPULATION <sup>OF</sup> ~~FOR~~ DISMISSAL

It is hereby stipulated and agreed that the complaint in the above-entitled case filed against the Internal Revenue Service be dismissed with prejudice, the parties to bear their respective costs, including any possible attorneys' fees or other expenses of litigation.

Dated this 29 day of May, 1987.

Robert K. Coulter  
ROBERT K. COULTER, ESQ.  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 227  
Ben Franklin Station  
Washington, D.C. 20044

Timothy Lee Nipper  
TIMOTHY LEE NIPPER, PRO SE  
3618 S. 107th E. Avenue  
Tulsa, Oklahoma 74146

Counsel for the  
Internal Revenue Service

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

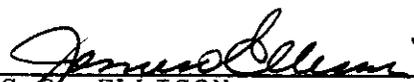
GERALD WILHITE, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 86-C-21-E  
 )  
TERRY YOUNG, )  
 )  
Defendant. )

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiff Gerald Wilhite take nothing from the Defendant Terry Young, that the action be dismissed on the merits, and that the Defendant Terry Young recover of the Plaintiff Gerald Wilhite his costs of action.

DATED at Tulsa, Oklahoma this 9<sup>th</sup> day of June, 1987.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

BARBER-COLMAN COMPANY, a  
Delaware corporation,

Plaintiff,

vs.

ENERCON, INC., an Oklahoma  
corporation; and THOMAS W.  
REINHART, an individual,

Defendants and  
Third Party  
Plaintiffs,

vs.

PROPERTY COMPANY OF AMERICA,

Third Party  
Defendants.

No. 86-C-670-E

JUDGMENT

This action came on for Summary Judgment before the Court, Honorable James O. Ellison, District Judge, presiding, and this Court having entered Summary Judgment on May 7, 1986, in favor of Plaintiff, Barber-Colman Company and against the Defendants, Enercon, Inc. and Thomas W. Reinhart, on all the grounds in Plaintiff's Complaint.

IT IS ORDERED AND ADJUDGED that the Plaintiff Barber-Colman Company recover of the Defendant Enercon, Inc. the principal sum of \$60,439.13 for liability on an open account plus pre-judgment interest at 6% per annum of \$7,292.46 and for the principal sum of \$52,766.82 for liability on a promissory note plus \$11,672.30 in prejudgment at the contract rate of 11% per

annum, and of the Defendant, Thomas W. Reinhart, the principal sum of \$52,766.82 and prejudgment interest of \$11,672.30 at the contract rate of 11% per annum; and with post-judgment interest thereon at the rate of 7.00 percent as provided by law, and its costs of this action.

DATED this 8<sup>th</sup> day of June, 1987.

**JAMES O. HILSON**

~~CLERK OF THE COURT~~

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FORD MOTOR CREDIT COMPANY,	)	
a Delaware corporation,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 87-C-255-E
	)	
DAVE MCGOWAN, individually;	)	
DAVE MCGOWAN, D/B/A SUNBELT	)	
GUARDRAIL; SUNBELT GUARDRAIL,	)	
INC., an Oklahoma corporation,	)	
and LARRY H. KINDLEY,	)	
individually,	)	
	)	
Defendants.	)	

ORDER OF DISMISSAL

THIS cause came to be heard on Plaintiff's Motion for Voluntary Dismissal of said cause, and due deliberation has been had thereon, it is

ORDERED that this cause be and the same is hereby dismissed without prejudice.

Dated June 8, 1987.

JAMES O. ELISON

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED  
JUN 10 1987  
U.S. DISTRICT COURT  
TULSA, OKLAHOMA

MID-SOUTH TOWING COMPANY, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
O. K. GRAIN, et al., )  
 )  
Defendants. )

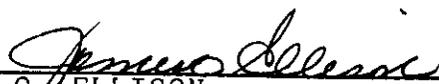
No. 85-C-676-E

JUDGMENT

This action came on for trial before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly tried and the Court having rendered its Findings of Fact and Conclusions of Law,

IT IS ORDERED AND ADJUDGED that the Plaintiff Mid-South Towing Company take nothing from the Defendants O. K. Grain, Peavey Barge Company, Conagra, Inc., Reliance Truck Company d/b/a Rogers Terminal, Inc., Dravo Mechling Corporation and Barge ML-708B, that Defendant Dravo Mechling Corporation take nothing from Defendants O. K. Grain, Peavy Barge Company, Conagra, Inc. and Reliance Truck Company d/b/a Rogers Terminal on its cross claim, that the action be dismissed on the merits, and that the Defendants recover of the Plaintiff their costs of action.

DATED at Tulsa, Oklahoma this 9<sup>th</sup> day of June, 1987.

  
\_\_\_\_\_  
JAMES O. ELLISON  
UNITED STATES DISTRICT JUDGE





*Entered*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DARRELL G. STOWE and B & S )  
CONSOLIDATED ENTERPRISE, INC., )  
an Oklahoma corporation, )  
 )  
Plaintiffs, )

vs. )

No. 87-C-226 C

PRINCE ROGERS NELSON a/k/a )  
PRINCE; PRN PRODUCTIONS, INC.; )  
a California corporation; )  
RICHARD KLOTZMAN; AMERICAN )  
AMUSEMENT CORPORATION, a )  
corporation; PURPLE RAIN )  
TOUR, INC., a corporation; )  
JAMES P. ANDERSON d/b/a )  
WILL-JAM PRODUCTIONS; KENNETH )  
MURRAY; and CAVALLO, RUFFALO & )  
FARGNOLI, LTD., a California )  
corporation, )  
 )  
Defendants. )

**FILED**  
**JUN 8 - 1987**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

ORDER FOR DISMISSAL WITH PREJUDICE

NOW on this 8 day of June, 1987, the Stipulation of Dismissal With Prejudice of Plaintiffs, and Defendants, PRN Productions, Inc., and Cavallo, Ruffalo & Fargnoli, Ltd., comes on for review before me, the undersigned Judge of the United States District Court. Having reviewed the Stipulation and being fully advised in the premises, the Court finds that the Stipulation should be granted as against the Defendants, PRN Productions, Inc., and Cavallo, Ruffalo & Fargnoli, Ltd., only.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the above captioned case is hereby dismissed with prejudice as against these Defendants only.

(Signed) H. Dale Cook  
\_\_\_\_\_  
THE HONORABLE H. DALE COOK  
JUDGE OF THE UNITED STATES  
DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD A. LETSON,

Defendant.

U S D

JUN 8 - 1987

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

CIVIL ACTION NO. 86-C-1024-C

DEFAULT JUDGMENT

This matter comes on for consideration this 8 day of ~~May~~ <sup>June</sup>, 1987, the Plaintiff appearing by Layn R. Phillips, United States Attorney for the Northern District of Oklahoma, through Phil Pinnell, Assistant United States Attorney, and the Defendant, Richard A. Letson, appearing not.

The Court being fully advised and having examined the file herein finds that Defendant, Richard A. Letson, was served with Summons and Complaint on February 10, 1987. The time within which the Defendant could have answered or otherwise moved as to the Complaint has expired and has not been extended. The Defendant has not answered or otherwise moved, and default has been entered by the Clerk of this Court. Plaintiff is entitled to Judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant,

Richard A. Letson, for the principal sum of \$969.00, plus interest at the rate of 9 percent per annum and administrative costs of \$.67 per month from October 28, 1985, until judgment, plus interest thereafter at the current legal rate of 7.00 percent per annum until paid, plus costs of this action.

(Signed) H. Dale Cook

---

UNITED STATES DISTRICT JUDGE

PEP/mp

JW19:9

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HAROLD M. BAILEY, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 THE ATCHISON, TOPEKA )  
 AND SANTA FE RAILWAY )  
 COMPANY, )  
 )  
 Defendant. )

No. 86-659-G

**FILED**

**JUN 8 - 1987**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

**ORDER OF DISMISSAL**

Pursuant to the Stipulation of the parties herein, the above styled and numbered cause is hereby dismissed with prejudice to the bringing of further actions thereon, each party to bear its own costs and attorneys' fees.

IT IS SO ORDERED this 8 day of June, 1987.

(Signed) H. Dale Cook  
\_\_\_\_\_  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

PRIDE OIL WELL SERVICE )  
)  
)  
Plaintiff(s), )  
)  
)  
vs. )  
)  
COOPER MFG., et al. )  
)  
)  
Defendant(s). )

No. 85-C-870-C

**F I L E D**

JUN 8 - 1987

O R D E R

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

Rule 36(a) of the Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) In any case in which no action has been taken by the parties for six (6) months, it shall be the duty of the Clerk to mail notice thereof to counsel of record or to the parties, if their post office addresses are known. If such notice has been given and no action has been taken in the case within thirty (30) days of the date of the notice, an order of dismissal may in the Court's discretion be entered.

In the action herein, notice pursuant to Rule 36(a) was mailed to counsel of record or to the parties, at their last address of record with the Court, on February 4, 1987. No action has been taken in the case within thirty (30) days of the date of the notice.

Therefore, it is the Order of the Court that this action is in all respects dismissed.

Dated this 8 day of June, 1987.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

THE BABCOCK & WILSON COMPANY )  
 )  
Plaintiff(s), )  
 )  
vs. )  
 )  
COOPER MFG. CORP., et al. )  
 )  
Defendant(s). )

No. 85-C-859-C

**FILED**

**JUN 8 - 1987**

O R D E R

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

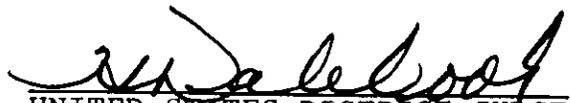
Rule 36(a) of the Rules of the United States District Court for the Northern District of Oklahoma provides as follows:

(a) In any case in which no action has been taken by the parties for six (6) months, it shall be the duty of the Clerk to mail notice thereof to counsel of record or to the parties, if their post office addresses are known. If such notice has been given and no action has been taken in the case within thirty (30) days of the date of the notice, an order of dismissal may in the Court's discretion be entered.

In the action herein, notice pursuant to Rule 36(a) was mailed to counsel of record or to the parties, at their last address of record with the Court, on February 4, 1987. No action has been taken in the case within thirty (30) days of the date of the notice.

Therefore, it is the Order of the Court that this action is in all respects dismissed.

Dated this 8 day of June, 1987.

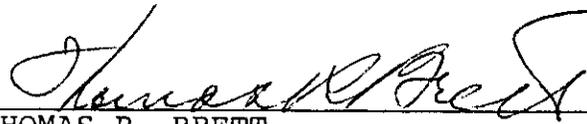
  
UNITED STATES DISTRICT JUDGE



4. The Court concludes that Judgment should be entered contemporaneously herewith.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff, F.D.I.C., shall have Judgment against Defendant, Ray & Sweeney Educational Trust Company, as and for attorneys' fees in the sum of \$1,852.50.

DATED, this 8<sup>th</sup> day of June 1987.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ACQUISITIONS, INC., an )  
Oklahoma Corporation; and )  
MICHAEL T. MURPHY and )  
JOHN D. HYATT, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
CENTRAL BANK AND TRUST OF )  
TULSA, )  
 )  
Defendant. )

**F I L E D**

**JUN 8 - 1987**

Jeck C. Silver, Clerk  
U.S. DISTRICT COURT

Case No. 86-C-943-C

JOURNAL ENTRY OF JUDGMENT

Federal Deposit Insurance Corporation ("FDIC"), substituted Defendant herein, filed its Motion for Summary Judgment on its Counterclaim on April 9, 1987 upon the ground that this Court's Order dated March 18, 1987, sustaining the FDIC's Motion to Dismiss Plaintiff's Complaint was dispositive of all issues in the case and that the FDIC was entitled to summary judgment on its Counterclaim upon the undisputed facts in this case. Plaintiff has not opposed the FDIC's Motion for Summary Judgment and the time for Plaintiff to do so has passed.

NOW, THEREFORE, the Court hereby sustains the FDIC's Motion for Summary Judgment and enters judgment in favor of the Federal Deposit Insurance Corporation and against the Plaintiffs, Acquisitions, Inc., an Oklahoma Corporation, Michael D. Murphy, and John D. Hyatt, in the amount of \$127,347.52, with pre-judgment

interest on such amount to March 31, 1987 in the amount of \$3,905.33, and pre-judgment interest after March 31, 1987 until judgment is entered at the per diem rate of \$61.02 per day, plus post-judgment interest from the date of judgment at the rate of 7% per annum, a reasonable attorney's fee to be fixed by the Court, and the costs of this action.

(Signed) H. Dale Cook

---

H. Dale Cook  
Chief Judge, U. S. District Court

JHL:ve

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 8 1987

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

MAYES COUNTY FEDERAL CREDIT UNION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
CUMIS INSURANCE SOCIETY, INC., )  
 )  
Defendant. )

Case No. 86-413-B

ORDER OF DISMISSAL

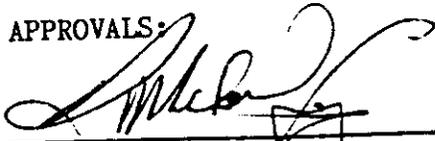
ON this 5th day of June 1987, upon the written application of the parties for a Dismissal with Prejudice of the Complaint and all causes of action, the Court, having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the Complaint and have requested the Court to dismiss said Complaint with prejudice to any future action, and the Court, being fully advised in the premises, finds that said Complaint should be dismissed pursuant to said application.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complaint and all causes of action of the Plaintiff filed herein against the Defendant be and the same hereby are dismissed with prejudice to any future action.

S/ THOMAS R. BRETT

\_\_\_\_\_  
THOMAS R. BRETT, JUDGE  
UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APPROVALS:



---

R. MICHAEL LANG  
Attorney for the Plaintiff



---

JOHN HOWARD LIEBER  
Attorney for the Defendant

F I L E  
JUN 17 1987  
U.S. DISTRICT COURT  
TULSA, OKLAHOMA

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

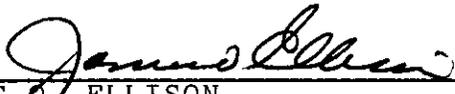
STEVEN R. BOST,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 85-C-892-E
	)	
RICHARD D. ROSBERG, et al.,	)	
	)	
Defendants.	)	

JUDGMENT

This action came on for hearing before the Court, Honorable James O. Ellison, District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that the Plaintiff Steven R. Bost take nothing from the Defendant Robin D. Moore and that the Defendant Robin D. Moore recover of the Plaintiff Steven R. Bost his costs of action.

DATED at Tulsa, Oklahoma this 8<sup>th</sup> day of June, 1987.


---

 JAMES O. ELLISON  
 UNITED STATES DISTRICT JUDGE



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -8 1987

WILLIAM SILVER, CLERK  
U.S. DISTRICT COURT

TULEASE COMPANY, a Texas )  
limited partnership, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
EMPLOYERS INSURANCE OF WAUSAU, )  
 )  
Defendant. )

No. 85-C-739-B

J U D G M E N T

In accordance with the jury's verdict rendered in this matter on May 27, 1987, IT IS HEREBY ORDERED AND ADJUDGED, that Judgment be entered in favor of the Plaintiff, TULEASE COMPANY, and against the Defendant, EMPLOYERS INSURANCE OF WAUSAU, and that the Plaintiff recover from the Defendant the sum of Thirty-Three Thousand Five Hundred Thirty-Three and No/100 Dollars (\$33,533.00), plus post-judgment interest at the rate of 7% per annum. Costs are assessed against the Defendant and each party is to pay their own respective attorneys fees.

DATED, this 8<sup>th</sup> day of June, 1987.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MICHAEL J. EAGAN and  
PATRICIA EAGAN,

Plaintiffs,

v.

NICK MIRANDA,

Defendant.

No. 85-C-539-B

**FILED**

**JUN - 8 1987**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

O R D E R

This matter comes before the Court on the Plaintiffs' Application for Attorney's Fees. Plaintiffs have submitted an Affidavit in support of their fee request. Defendant has not objected to the Application.

The Judgment entered herein on November 4, 1986, provided that the Plaintiffs, Michael and Patricia Eagan, should recover "costs and a reasonable attorney's fee is timely applied for pursuant to Rule 6 of the Local Rules of the United States District Court for the Northern District of Oklahoma." Plaintiffs filed their application for attorney's fees on January 16, 1987. Defendant has not responded thereto.

After reviewing the record and evidence herein, the Court concludes:

1. That Michael and Patricia Eagan were the prevailing parties in an action against Nick Miranda, and that Judgment was entered for the Eagans on November 4, 1986.
2. That pursuant to the contract between the parties, and 12 O.S. §936, the Eagans are entitled to attorney's fees against Miranda as the prevailing parties.

3. The Court finds that the Eagans are requesting a fee for services rendered by John M. Freese at the rate of \$135.00 per hour, Grant E. Cheadle at the rate of \$85.00 per hour and David W. Mills at the rate of \$65.00 per hour. Plaintiffs' attorneys expended 344.1 hours in preparation and trial\* of this matter and have requested a fee of \$27,623.25. The Court concludes this represents a reasonable and necessary fee. See, Oliver's Sport Center, Inc. v. National Standard Insurance Co., 615 P.2d 291 (Okla. 1980); State ex rel. Burk v. City of Oklahoma City, 598 P.2d 659 (Okla. 1979).
4. The Court finds that Judgment should be entered contemporaneously in this Order.
5. The Court finds that Plaintiffs have also requested costs of \$1,250.54. Application for costs is appropriately filed with the Court Clerk, pursuant to local rules.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiffs Michael and Patricia Eagan shall have Judgment against Nick Miranda as and for attorney's fees in the sum of \$27,623.25, plus interest at the rate of 5.75 percent per annum from this date.

DATED this 8<sup>th</sup> day of June, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

---

\* In the Application for Attorney's Fees, Plaintiffs seek \$32,041.95. However, the invoice attached thereto allows for reductions which bring the total amount to \$27,623.25.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DANNY J. VARNELL,

Plaintiff,

vs.

OTIS R. BOWEN, M.D.,  
Secretary of Health and  
Human Services,

Defendant.

**FILED**

**JUN - 5 1987**

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

CIVIL ACTION NO. 86-C-1055-E

O R D E R

For good cause shown, pursuant to 42 U.S.C. §405(g),  
this cause is remanded for further administrative action.

Dated this 5<sup>th</sup> day of June, 1987.

**JAMES O. ELISON**

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUN 5 1987

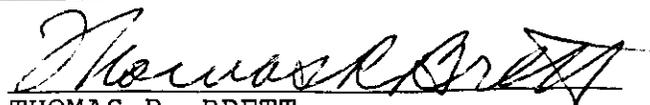
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

SHELTER MUTUAL INSURANCE	)	
COMPANY,	)	
	)	No. 87-C-62-B
Plaintiff,	)	
	)	
v.	)	
	)	
RANDALL G. ESLICK and	)	
JEFFREY T. LEDBETTER,	)	
	)	
Defendants.	)	

ADMINISTRATIVE CLOSING ORDER

This matter came before the Court on June 2, 1987, for initial Status Conference. Plaintiff herein is seeking a declaratory judgment that Plaintiff's insurance contract with Defendant Jeffrey T. Ledbetter does not provide underinsured motorist coverage. The Court has been advised by counsel for Plaintiff that this issue has been litigated in a lawsuit styled Randall G. Eslick v. Jeffrey T. Ledbetter and Shelter Mutual Insurance Co., No. C-86-3-D, in the District Court for Creek County, Oklahoma. That court's decision on the underinsured motorist coverage question is presently on appeal to the Oklahoma Supreme Court, No. 68,225. With the agreement of Plaintiff, the Clerk is hereby ordered to administratively close this case pending resolution of Plaintiff's appeal to the Oklahoma Supreme Court. Plaintiff may seek to reopen this matter within 60 days of final action by the Oklahoma Supreme Court. If Plaintiff does not do so, this matter will be dismissed.

IT IS SO ORDERED, this 5 day of June 1987.

  
 THOMAS R. BRETT  
 UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -5 1987

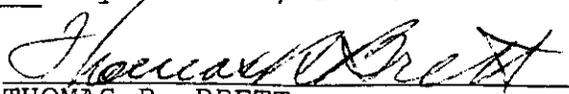
CLERK  
DISTRICT COURT

TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-7-B
	)	
LT. REEVES, TULSA COUNTY	)	
JAIL,	)	
	)	
Defendant.	)	Consolidated with
	)	
TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-39-B
	)	
DR. BARNES and SUSAN ESMONDS,	)	
	)	
Defendants.	)	Consolidated with
	)	
TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-165-B
	)	
WILLIAM T. REAVES, TULSA	)	
COUNTY JAIL,	)	
	)	
Defendants.	)	

J U D G M E N T

In accord with the Order filed in the above-styled cases on May 27, 1987, Judgment is hereby entered in favor of the defendants, Reeves, Barnes, Esmonds and Reaves, and against the plaintiff, Tommy Redmon, on his claims under 42 U.S.C. §1983, the plaintiff to take nothing on his claims.

IT IS SO ORDERED this 5<sup>th</sup> day of June, 1987.

  
 THOMAS R. BRETT  
 UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUN -5 1987

RECEIVED  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-7-B
	)	
LT. REEVES, TULSA COUNTY	)	
JAIL,	)	
	)	
Defendant.	)	Consolidated with
	)	
TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-39-B
	)	
DR. BARNES and SUSAN ESMONDS,	)	
	)	
Defendants.	)	Consolidated with
	)	
TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-165-B
	)	
WILLIAM T. REAVES, TULSA	)	
COUNTY JAIL,	)	
	)	
Defendants.	)	

J U D G M E N T

In accord with the Order filed in the above-styled cases on May 27, 1987, Judgment is hereby entered in favor of the defendants, Reeves, Barnes, Esmonds and Reaves, and against the plaintiff, Tommy Redmon, on his claims under 42 U.S.C. §1983, the plaintiff to take nothing on his claims.

IT IS SO ORDERED this 5<sup>th</sup> day of June, 1987.

*Thomas R. Brett*  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

FILE

JUN 5 1987

JOHN G. SWAN, CLERK  
U. S. DISTRICT COURT

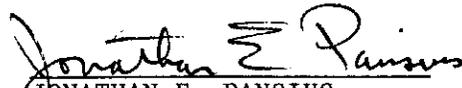
RANDALL A. COYLE, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
THE CITY OF SOUTH COFFEYVILLE, )  
OKLAHOMA, a Municipal Corporation, )  
PATRICIA YATES, an individual; )  
GLORIA LIVINGSTON, an individual; )  
and JOHN R. HAYNES, an individual, )  
 )  
Defendants. )

Case # ~~6-87-234-E~~

87-C-234-E ✓

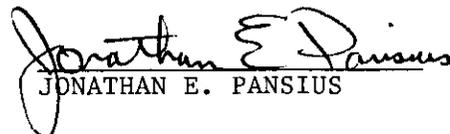
NOTICE OF  
DISMISSAL

COMES NOW the Plaintiff, by and through his attorney of record, and dismisses the above encaptioned case with prejudice, pursuant to agreement between the parties.

  
JONATHAN E. PANSIUS  
717 South Houston, Suite 404  
Tulsa, Oklahoma 74127  
(918) 583-2586  
OBA # 10109

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above Dismissal was mailed, with sufficient postage thereon, on the 5th day of June, 1987 to Mr. John Howard Lieber of Knight, Wagner, Stuart, Wilkerson & Lieber, P.O. Box 1560, Tulsa, Oklahoma 74101-1560.

  
JONATHAN E. PANSIUS

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -5 1987

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-7-B
	)	
LT. REEVES, TULSA COUNTY	)	
JAIL,	)	
	)	
Defendant.	)	Consolidated with
	)	
TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-39-B
	)	
DR. BARNES and SUSAN ESMONDS,	)	
	)	
Defendants.	)	Consolidated with
	)	
TOMMY REDMON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 86-C-165-B
	)	
WILLIAM T. REAVES, TULSA	)	
COUNTY JAIL,	)	
	)	
Defendants.	)	

J U D G M E N T

In accord with the Order filed in the above-styled cases on May 27, 1987, Judgment is hereby entered in favor of the defendants, Reeves, Barnes, Esmonds and Reaves, and against the plaintiff, Tommy Redmon, on his claims under 42 U.S.C. §1983, the plaintiff to take nothing on his claims.

IT IS SO ORDERED this 5<sup>th</sup> day of June, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ANTIQUES, INC., )

Plaintiff, )

vs. )

No. 85-C-629-E )

CHARLES SCHMITT; CHARLES SCHMITT )  
& COMPANY; BOATMEN'S BANK OF )  
CONCORD VILLAGE; and JOHN SHERMAN, )

Defendants. )

ORDER OF DISMISSAL

IT APPEARING to the Court that the above-entitled action has been fully settled, adjusted, and compromised, and based on stipulation; therefore,

IT IS ORDERED AND ADJUDGED that the above-entitled action be, and it is hereby, dismissed, without cost to either party. Further, the action is dismissed with prejudice to refileing by Antiques, Inc., as to its claims against all Defendants; the cross-claim of Defendants, Charles Schmitt and Charles Schnitt & Company against Boatmen's Bank of Concord Village is dismissed without prejudice to refileing.

Dated this 3rd day of June, 1987.

JAMES O. ELISON

U.S. District Judge

LAW OFFICES

UNGERMAN,  
CONNER &  
LITTLE

MIDWAY BLDG.  
2727 EAST 21 ST.  
SUITE 400

P. O. BOX 2093  
TULSA, OKLAHOMA  
74101



IN THE UNITED STATES DISTRICT COURT,  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

TONYA HALL, by and through her  
parents, BART and CHARLOTTE HALL,  
husband and wife, and CHARLOTTE  
HALL,

Plaintiffs,

vs.

TULSA CHILD DEVELOPMENT and REGIONAL  
GUIDANCE CENTER, CITY OF TULSA,  
OKLAHOMA, TULSA COUNTY, OKLAHOMA,  
THE CITY OF TULSA-TULSA COUNTY  
HEALTH DEPARTMENT, DEPARTMENT  
OF HUMAN SERVICES, CITY OF BIXBY,  
OKLAHOMA, BIXBY PUBLIC SCHOOL  
DISTRICT, BIXBY POLICE DEPARTMENT,  
ELEANOR POPE, an Individual,  
PAM COSGROVE, an Individual,

Defendants.

JUN 15 1987  
JAMES L. ...  
U. S. DISTRICT COURT

Case No. 87-C-185-C

VOLUNTARY DISMISSAL OF  
CITY OF BIXBY AND BIXBY POLICE DEPARTMENT

COMES NOW said Plaintiffs, and hereby dismisses the Defendants, City of  
Bixby and Bixby Police Department from this cause of action with prejudice,  
at the cost of the Plaintiff.

DATED this \_\_ day of June, 1987.

*Cecil G. Drummond*

CECIL G. DRUMMOND OBA #2503  
Jackson, Drummond & Hawkins  
2431 E. 51st, Suite 210,  
Expressway Tower  
Tulsa, Oklahoma 74105-6031  
(918) 747-7997

Attorney for Plaintiffs

CERTIFICATE OF MAILING

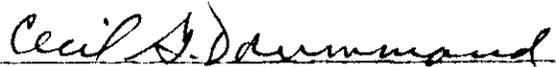
I, Cecil G. Drummond, hereby certify that on this \_\_\_ day of June, 1987,  
I mailed a true and correct copy of the foregoing Voluntary Dismissal of City  
of Bixby and Bixby Police Department with postage fully prepaid thereon to:

John Howard Lieber  
P. O. Box 1560  
Tulsa, OK 74101-1560

Gary Cox  
4616 East 15th Street  
Tulsa, OK 74112

Billy M. Shaw  
502 West 6th Street  
Tulsa, OK 74119

Richard Freeman  
P. O. Box 53025  
Oklahoma City, OK 73152

  
CECIL G. DRUMMOND

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JUN 3 1987

CHARLES RAHILLY, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 OCCIDENTAL PETROLEUM CORP., )  
 )  
 Defendant. )

No. 86-C-868-B  
U.S. DISTRICT COURT

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

J U D G M E N T

In accordance with the Court's Order entered this date, IT IS HEREBY ORDERED AND ADJUDGED, that Judgment be entered in favor of the Defendant, Occidental Petroleum Corporation, and against the Plaintiff, Charles Rahilly, on all of the Plaintiff's claims herein and that Plaintiff shall take nothing therefrom. The parties shall bear their own respective costs of this action.

DATED this 2<sup>nd</sup> day of June 1987.

  
\_\_\_\_\_  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE



FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUN 8 1987

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

In re	)	
	)	
REPUBLIC FINANCIAL	)	
CORPORATION, an Oklahoma	)	Bankruptcy Case No. 84-01460
corporation,	)	(Chapter 11)
	)	
Debtor.	)	
	)	
R. DOBIE LANGENKAMP,	)	
Successor Trustee,	)	
	)	
Plaintiff,	)	Adversary No. 85-0304
	)	
v.	)	
	)	
KENNETH D. and MARY L. MOORE,	)	Case No.87-C-399-B
	)	Case No.87-C-400-B
Defendants.	)	

O R D E R

These related cases come before the Court on applications for leave to appeal interlocutory orders of the Bankruptcy Court for the Northern District of Oklahoma. The Court finds that these related cases raise identical questions to those disposed in today's order in 87-C-285-B and 87-C-297-B.

For the reasons set forth in that Order and incorporated by reference herein, the application for leave to appeal interlocutory orders of the Bankruptcy Court for the Northern District of Oklahoma in Case 87-C-399-B and 87-C-400-B, are denied.

IT IS SO ORDERED, this 1st day of June, 1987.



THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

JUN 2 1987

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

REPUBLIC FINANCIAL CORPORATION, an Oklahoma corporation,	)	Case No. 84-01460
	)	(Chapter 11)
	)	
Debtor.	)	
	)	
R. DOBIE LANGENKAMP, Successor Trustee,	)	Adversary No. 85-0302
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
KEMAL SAIED and CONSTANCE G. SAIED,	)	No. 87-C-285-B
	)	
	)	
Defendants.	)	No. 87-C-297-B

O R D E R

This matter comes before the Court on the application for leave to appeal from an interlocutory order of the Bankruptcy Court and emergency application for stay of proceedings pending appeal of the Defendants, Kemal Saied and Constance G. Saied. For the reasons set forth below, leave to appeal the interlocutory orders is denied and the application for stay of proceeding is also denied.

The Defendants Saied filed application for leave to appeal an interlocutory order denying a motion for summary judgment on April 23, 1987, pursuant to 28 U.S.C. §158(a) and Bankruptcy Rule 8003. The appeal of the order denying the motion for summary judgment was docketed here as 87-C-297-B. On February 27, 1987, the Defendants Saied filed an application for leave to appeal an interlocutory order denying jury trial, docketed here as Case No.

87-C-285-B. Both applications for leave to appeal will be considered together in this order.

An interlocutory appeal from an order of the Bankruptcy Court may only be taken "with leave of court." 28 U.S.C. §158(a). Section 158 is silent as to what standard or consideration should be employed by the district court in determining whether leave to appeal should be granted.

Because bankruptcy appeals are to be taken in the same manner as appeals in civil matters, generally, the court finds the statutory provision governing interlocutory appeals from district courts to appellate courts should be applied. 28 U.S.C. §1292(b). See In re Johns-Manville Corp., 47 B.R. 957 (S.D.N.Y. 1985). In general, exceptional circumstances must be present to warrant allowing an interlocutory appeal. Coopers & Lybrand v. Livesay, 437 U.S. 463 (1977). 28 U.S.C. §1292(b) mandates three conditions requisite to an interlocutory appeal: (1) the existence of a controlling question of law; which (2) would entail substantial grounds for differences of opinion; and (3) the resolution of which would materially advance the ultimate termination of the litigation. See also, In re Chandler, 66 B.R. 334, 336 (N.D.Ga. 1986).

The court finds the Defendants Saied have failed to satisfy any of the above conditions in Case No. 87-C-285-B, which seeks to appeal the bankruptcy order denying a jury trial. The issue raised here by the Defendants of the right to a jury trial in the instant preference action fails to satisfy conditions (1) and (2)

above. The great weight of authority supports the ruling by the Bankruptcy Court that the Defendants are not entitled to a jury trial on this preference action under 11 U.S.C. §547. See, Katchen v. Lundy, 382 U.S. 323, 336-338 (1966); In re Country Junction, Inc., 41 B.R. 425, 430 (W.D.Tex. 1984); In re Reda, Inc., 60 B.R. 178 (N.D.Ill. 1986); In re Rogers & Sons, Inc., 48 B.R. 683, 688 (Bkrtcy.E.D.Okla. 1985). The court finds the defendants have failed to show a substantial ground for differences of opinion as to their right to a jury trial and therefore the court is compelled to deny the motion for leave to appeal in Case No. 87-C-285-B.

Regarding the application for leave to appeal in Case No. 87-C-297-B, the court must examine the two issues presented on appeal against the conditions for allowing an interlocutory appeal as previously set forth. Defendants seek to appeal the order denying motion for summary judgment on two points. First, that the Bankruptcy Court erred in applying 11 U.S.C. §547(c)(2) as it appeared prior to enactment of the bankruptcy amendments and Federal Judgeship Act of 1984, P.L. 98/353. Defendants argue that if the amended version of 11 U.S.C. §545(c)(2) is applied in the instant case, that they would have a complete defense to the preference action. The question presented here is whether the filing date of the bankruptcy case or the filing date of the preference action controls which version of 11 U.S.C. §547(c)(2) is to be applied in this preference case.

The 1984 Act was enacted July 10, 1984. Section 553(a) of Title 3 of the 1984 Act provides:

"Except as otherwise provided in this section, the amendments made by this title shall become effective to cases filed ninety days after the date of enactment of this act."

The period of ninety days after July 10, 1984, expired October 8, 1984, which was a holiday, and thus the effective date as provided above is October 9, 1984. The instant preference action was filed on October 3, 1985, and the bankruptcy case was filed on September 24, 1984. The Defendants urge that the time of the filing of the preference case controls which version of §547(c)(2) should apply. The Bankruptcy Court below adopted the time of the filing of the bankruptcy case as controlling the law to be applied in the preference case. The court has reviewed the Bankruptcy Court's authority and reasoning for the effective date of the 1984 amendments to §547(c) and finds that it should control. The Defendants argue that the term "cases" used in §553(a) of the 1984 amendments includes not only cases under Title 11; but also adversarial "civil proceedings." For purposes of this application, the court agrees with the interpretation of the term "cases" as decided below by the Bankruptcy Court which states:

"There is nothing much clearer in the Code than the dichotomy which it creates between 'cases' and 'civil proceeding'. The jurisdictional provisions found in 28 U.S.C. §1334, which was added by the 1984 Amendments, provide for 'original and exclusive jurisdiction of all cases under Title 11,' and 'original but not exclusive jurisdiction of all civil proceedings arising under Title 11, or arising in or related to cases under Title 11.' (emphasis supplied) It is clear that the present

action is a 'civil proceeding' arising under Title 11 and not a 'case' under Title 11. . . .

"Moreover, to interpret §553(a) of the 1984 Amendments as the defendants urge us, would require the Court to conclude that the results in two preference actions filed in the same bankruptcy proceeding, similar in all respects would be determined by the application of different legal standards because of a trustee's decision to file the complaints on separate dates. This Court refuses to draw such an illogical conclusion. Therefore, this Court, in accordance with the majority of other courts which have considered this issue, holds that the 45-day rule is applicable to preference actions filed after October 8, 1984 but which relate to bankruptcy cases which were pending on that date."

In re Chase & Sanborn Corp., 51 B.R. 736, 737-738 (Bkrtcy. S.D. Fla. 1985); In re Auto-Pak, Inc., 55 B.R. 403, 404, footnote 1 (Bkrtcy. D.D.C.1983); In re Matter of Almarc Manufacturing, Inc., 52 B.R. 582, 583 (Bkrtcy. N.D. Ill. 1985); Matter of Tressler, 771 F.2d 791, 792 (3rd Cir. 1985); Matter of Lorandos, 58 B.R. 519-522 (Bkrtcy.S.D. Ohio 1986); In re Demetralis, 57 B.R. 425, 427, footnote 1 (Bkrtcy. D. Minn. 1985); Matter of Lemanski, 56 B.R. 981, 984, footnote 3 (Bkrtcy. W.D.Wisc. 1986).

Defendants contend that a number of recent cases support the contrary view that the time of filing of the preference case should control the law to be applied, citing Lellock v. Prudential Insurance Co. of America, 811 F.2d 186, 188 (3d Cir. 1987); In re Pierce, 809 F.2d 1356 (8th Cir. 1987); Wilson v. Harris Trust & Savings Co, 777 F.2d 1246 (7th Cir. 1985). Examination of these cases shows that the Defendants have failed to show the existence of a controlling question of law which entails substantial grounds for differences of opinion. In the

Lellock case, supra, the Third Circuit applied an amendment to the Bankruptcy Act in a case where the bankruptcy case had been filed prior to the 1984 Act and the contested matter filed after the effective date of the 1984 Act. In so doing, however, the court noted that the amendment to the section as applied was not substantive in nature and the results in the case would have been the same under either version. The court does not agree with the Defendants' contention that the Lellock decision essentially reversed Matter of Tressler, 771 F.2d 791, 792 (3d Cir. 1985) as cited below by the Bankruptcy Court. The court also finds the Defendants' citation to Wilson v. Harris Trust & Savings Co., 777 F.2d 1246 (7th Cir. 1985) as unpersuasive. Defendants urge that the Wilson case did not look to the date of the bankruptcy, but looked to the date of the District Court case to determine which law should apply. Unlike the instant matter, Wilson sought retroactive application of the 1984 amendment to the Bankruptcy Act. In denying retroactive application, the court stated:

"Congress expressly stated that subsection (b) was to be applied only to cases filed ninety days after enactment. Subsection (b) was enacted July 10, 1984, long after this case had been in litigation." (Emphasis supplied).

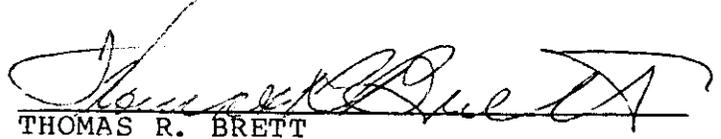
The term "this case" in Wilson, could refer to either the bankruptcy case filed in 1981 or the civil proceeding filed in January 1982, lending little support to Defendants' argument.

The court finds that the Defendants have failed to articulate substantial grounds for differences of opinion as to which version of §547(c)(2) should apply and therefore the court

will deny leave to appeal the Bankruptcy Court's interlocutory order.

Additionally, the Defendants seek to appeal alleged due process claims asserting that they were not accorded notices as mandated by Title 11 of the United States Code and the Bankruptcy Rules. The court finds that the Defendants' alleged due process violation does not constitute circumstances that are extraordinary enough to warrant an interlocutory appeal. See, In re Den-Col Cartage & Distribution, Inc., 20 B.R. 645 (D.C.Colo. 1982). For this reason, the motion for leave to appeal on the issue of the due process claim is denied. The court therefore denies leave to appeal in Case No. 87-C-285 and 87-C-297-B. The court finds that the emergency application for stay of proceedings pending appeal in 87-C-297 is moot.

IT IS SO ORDERED this 2<sup>nd</sup> day of June, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

JUN 18 1987

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

REPUBLIC FINANCIAL CORPORATION,	)	Case No. 84-01460
an Oklahoma corporation,	)	(Chapter 11)
	)	
Debtor.	)	
	)	
R. DOBIE LANGENKAMP,	)	Adversary No. 85-0302
Successor Trustee,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
KEMAL SAIED and CONSTANCE G.	)	No. 87-C-285-B
SAIED,	)	
	)	
Defendants.	)	No. 87-C-297-B

ORDER

This matter comes before the Court on the application for leave to appeal from an interlocutory order of the Bankruptcy Court and emergency application for stay of proceedings pending appeal of the Defendants, Kemal Saied and Constance G. Saied. For the reasons set forth below, leave to appeal the interlocutory orders is denied and the application for stay of proceeding is also denied.

The Defendants Saied filed application for leave to appeal an interlocutory order denying a motion for summary judgment on April 23, 1987, pursuant to 28 U.S.C. §158(a) and Bankruptcy Rule 8003. The appeal of the order denying the motion for summary judgment was docketed here as 87-C-297-B. On February 27, 1987, the Defendants Saied filed an application for leave to appeal an interlocutory order denying jury trial, docketed here as Case No.

87-C-285-B. Both applications for leave to appeal will be considered together in this order.

An interlocutory appeal from an order of the Bankruptcy Court may only be taken "with leave of court." 28 U.S.C. §158(a). Section 158 is silent as to what standard or consideration should be employed by the district court in determining whether leave to appeal should be granted.

Because bankruptcy appeals are to be taken in the same manner as appeals in civil matters, generally, the court finds the statutory provision governing interlocutory appeals from district courts to appellate courts should be applied. 28 U.S.C. §1292(b). See In re Johns-Manville Corp., 47 B.R. 957 (S.D.N.Y. 1985). In general, exceptional circumstances must be present to warrant allowing an interlocutory appeal. Coopers & Lybrand v. Livesay, 437 U.S. 463 (1977). 28 U.S.C. §1292(b) mandates three conditions requisite to an interlocutory appeal: (1) the existence of a controlling question of law; which (2) would entail substantial grounds for differences of opinion; and (3) the resolution of which would materially advance the ultimate termination of the litigation. See also, In re Chandler, 66 B.R. 334, 336 (N.D.Ga. 1986).

The court finds the Defendants Saied have failed to satisfy any of the above conditions in Case No. 87-C-285-B, which seeks to appeal the bankruptcy order denying a jury trial. The issue raised here by the Defendants of the right to a jury trial in the instant preference action fails to satisfy conditions (1) and (2)

above. The great weight of authority supports the ruling by the Bankruptcy Court that the Defendants are not entitled to a jury trial on this preference action under 11 U.S.C. §547. See, Katchen v. Lundy, 382 U.S. 323, 336-338 (1966); In re Country Junction, Inc., 41 B.R. 425, 430 (W.D.Tex. 1984); In re Reda, Inc., 60 B.R. 178 (N.D.Ill. 1986); In re Rogers & Sons, Inc., 48 B.R. 683, 688 (Bkrtcy.E.D.Okla. 1985). The court finds the defendants have failed to show a substantial ground for differences of opinion as to their right to a jury trial and therefore the court is compelled to deny the motion for leave to appeal in Case No. 87-C-285-B.

Regarding the application for leave to appeal in Case No. 87-C-297-B, the court must examine the two issues presented on appeal against the conditions for allowing an interlocutory appeal as previously set forth. Defendants seek to appeal the order denying motion for summary judgment on two points. First, that the Bankruptcy Court erred in applying 11 U.S.C. §547(c)(2) as it appeared prior to enactment of the bankruptcy amendments and Federal Judgeship Act of 1984, P.L. 98/353. Defendants argue that if the amended version of 11 U.S.C. §545(c)(2) is applied in the instant case, that they would have a complete defense to the preference action. The question presented here is whether the filing date of the bankruptcy case or the filing date of the preference action controls which version of 11 U.S.C. §547(c)(2) is to be applied in this preference case.

The 1984 Act was enacted July 10, 1984. Section 553(a) of Title 3 of the 1984 Act provides:

"Except as otherwise provided in this section, the amendments made by this title shall become effective to cases filed ninety days after the date of enactment of this act."

The period of ninety days after July 10, 1984, expired October 8, 1984, which was a holiday, and thus the effective date as provided above is October 9, 1984. The instant preference action was filed on October 3, 1985, and the bankruptcy case was filed on September 24, 1984. The Defendants urge that the time of the filing of the preference case controls which version of §547(c)(2) should apply. The Bankruptcy Court below adopted the time of the filing of the bankruptcy case as controlling the law to be applied in the preference case. The court has reviewed the Bankruptcy Court's authority and reasoning for the effective date of the 1984 amendments to §547(c) and finds that it should control. The Defendants argue that the term "cases" used in §553(a) of the 1984 amendments includes not only cases under Title 11; but also adversarial "civil proceedings." For purposes of this application, the court agrees with the interpretation of the term "cases" as decided below by the Bankruptcy Court which states:

"There is nothing much clearer in the Code than the dichotomy which it creates between 'cases' and 'civil proceeding'. The jurisdictional provisions found in 28 U.S.C. §1334, which was added by the 1984 Amendments, provide for 'original and exclusive jurisdiction of all cases under Title 11,' and 'original but not exclusive jurisdiction of all civil proceedings arising under Title 11, or arising in or related to cases under Title 11.' (emphasis supplied) It is clear that the present

action is a 'civil proceeding' arising under Title 11 and not a 'case' under Title 11. . . .

"Moreover, to interpret §553(a) of the 1984 Amendments as the defendants urge us, would require the Court to conclude that the results in two preference actions filed in the same bankruptcy proceeding, similar in all respects would be determined by the application of different legal standards because of a trustee's decision to file the complaints on separate dates. This Court refuses to draw such an illogical conclusion. Therefore, this Court, in accordance with the majority of other courts which have considered this issue, holds that the 45-day rule is applicable to preference actions filed after October 8, 1984 but which relate to bankruptcy cases which were pending on that date."

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Defendants contend that a number of recent cases support the contrary view that the time of filing of the preference case should control the law to be applied, citing Lellock v. Prudential Insurance Co. of America, 811 F.2d 186, 188 (3d Cir. 1987); In re Pierce, 809 F.2d 1356 (8th Cir. 1987); Wilson v. Harris Trust & Savings Co, 777 F.2d 1246 (7th Cir. 1985). Examination of these cases shows that the Defendants have failed to show the existence of a controlling question of law which entails substantial grounds for differences of opinion. In the

Lellock case, supra, the Third Circuit applied an amendment to the Bankruptcy Act in a case where the bankruptcy case had been filed prior to the 1984 Act and the contested matter filed after the effective date of the 1984 Act. In so doing, however, the court noted that the amendment to the section as applied was not substantive in nature and the results in the case would have been the same under either version. The court does not agree with the Defendants' contention that the Lellock decision essentially reversed Matter of Tressler, 771 F.2d 791, 792 (3d Cir. 1985) as cited below by the Bankruptcy Court. The court also finds the Defendants' citation to Wilson v. Harris Trust & Savings Co., 777 F.2d 1246 (7th Cir. 1985) as unpersuasive. Defendants urge that the Wilson case did not look to the date of the bankruptcy, but looked to the date of the District Court case to determine which law should apply. Unlike the instant matter, Wilson sought retroactive application of the 1984 amendment to the Bankruptcy Act. In denying retroactive application, the court stated:

"Congress expressly stated that subsection (b) was to be applied only to cases filed ninety days after enactment. Subsection (b) was enacted July 10, 1984, long after this case had been in litigation." (Emphasis supplied).

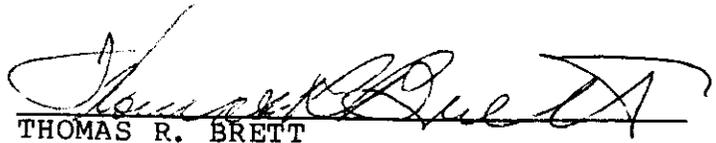
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The court finds that the Defendants have failed to articulate substantial grounds for differences of opinion as to which version of §547(c)(2) should apply and therefore the court

will deny leave to appeal the Bankruptcy Court's interlocutory order.

Additionally, the Defendants seek to appeal alleged due process claims asserting that they were not accorded notices as mandated by Title 11 of the United States Code and the Bankruptcy Rules. The court finds that the Defendants' alleged due process violation does not constitute circumstances that are extraordinary enough to warrant an interlocutory appeal. See, In re Den-Col Cartage & Distribution, Inc., 20 B.R. 645 (D.C.Colo. 1982). For this reason, the motion for leave to appeal on the issue of the due process claim is denied. The court therefore denies leave to appeal in Case No. 87-C-285 and 87-C-297-B. The court finds that the emergency application for stay of proceedings pending appeal in 87-C-297 is moot.

IT IS SO ORDERED this 2nd day of June, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

*entered*

IN THE UNITED STATES DISTRICT COURT,  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN -2 1987

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

TONYA HALL, by and through her )  
parents, BART and CHARLOTTE HALL, )  
husband and wife, and CHARLOTTE )  
HALL, )

Plaintiffs, )

vs. )

Case No. 87-C-185-C

TULSA CHILD DEVELOPMENT and REGIONAL )  
GUIDANCE CENTER, CITY OF TULSA, )  
OKLAHOMA, TULSA COUNTY, OKLAHOMA, )  
THE CITY OF TULSA-TULSA COUNTY )  
HEALTH DEPARTMENT, DEPARTMENT OF )  
HUMAN SERVICES, CITY OF BIXBY, )  
OKLAHOMA, BIXBY PUBLIC SCHOOL )  
DISTRICT, BIXBY POLICE DEPARTMENT, )  
ELEANOR POPE, an Individual, )  
PAM COSGROVE, an Individual, )

Defendants. )

VOLUNTARY DISMISSAL OF  
TULSA CITY-COUNTY HEALTH DEPARTMENT

COMES NOW said Plaintiffs, and hereby dismisses the Defendant, Tulsa  
City-County Health Department from this cause of action with prejudice  
at the cost of the Plaintiff.

DATED this 2 day of June, 1987.

*Cecil A. Drummond*

CECIL G. DRUMMOND OBA #2503  
Jackson, Drummond & Hawkins  
2431 E. 51st, Suite 210,  
Expressway Tower  
Tulsa, Oklahoma 74105-6031  
(918) 747-7997

Attorney for the Plaintiffs

CERTIFICATE OF MAILING

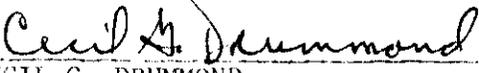
I, Cecil G. Drummond, hereby certify that on this 2 day of June, 1987,  
I mailed a true and correct copy of the foregoing Voluntary Dismissal of  
Tulsa City-County Health Department with postage fully prepaid thereon to:

John Howard Lieber  
P. O. Box 1560  
Tulsa, OK 74101-1560

Gary Cox  
4616 East 15th Street  
Tulsa, OK 74112

Billy M. Shaw  
502 West 6th Street  
Tulsa, OK 74119

Richard Freeman  
P. O. Box 53025  
Oklahoma City, OK 73152

  
\_\_\_\_\_  
CECIL G. DRUMMOND

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED  
IN OPEN COURT**

JUN 2 1987

**Jack C. Silver  
Clerk, U. S. District Court**

CLINTON ALLEN ROLLINGS, a minor,  
born January 11, 1982, by and  
through ROBERT STANLEY ROLLINGS, II,  
and HELEN ROLLINGS, natural parents,  
guardians, and next friends,

Plaintiffs,

vs.

SAINT FRANCIS HOSPITAL, INC., an  
Oklahoma corporation, and MILTON  
GILES FORT, M.D.,

Defendants.

No. 86-C-358-C

ORDER

On this 2nd day of June, 1987, the plaintiffs and defendant Saint Francis Hospital, Inc. appeared before the undersigned United States Magistrate for the purpose of approving the settlement of all of plaintiffs' claims against the defendant Saint Francis Hospital, Inc. After hearing the evidence, this Court makes the following findings:

1. The stipulation of the 2nd day of June, 1987 between the plaintiffs and defendant is hereby approved;

2. Helen Rollings is hereby appointed guardian ad litem for the purpose of this action for Clinton Allen Rollings, a minor;

3. This Court has jurisdiction of the subject matter and of these parties;

4. Venue is proper in the Northern District of Oklahoma;

5. The defendant Saint Francis Hospital, Inc. has offered to settle all claims by the plaintiffs against it for Four Thousand Dollars (\$4,000.00), as follows:

A. Seventy-Eight and 12/100 Dollars (\$78.12) for costs and expenses;

B. One Thousand Nine Hundred Sixty and 94/100 Dollars (\$1,960.94) as attorney's fees;

C. Nine Hundred Sixty-One and 94/100 Dollars (\$961.94) to be paid to Robert Stanley Rollings and Helen Rollings for medical bills;

D. Nine Hundred Ninety-Nine Dollars (\$999.00) to the minor child, Clinton Allen Rollings;  
in exchange for a dismissal with prejudice and release in full of all claims by Clinton Allen Rollings, a minor, Robert Stanley Rollings, II, and Helen Rollings in favor of Saint Francis Hospital, Inc.;

6. The plaintiffs have voluntarily accepted that offer, have been fully advised by counsel, and understand the rights that they are giving up, including but not limited to the minor's rights to sue in his own name upon majority or the right to sue through his natural parents, guardians, next friends or guardian ad litem prior to attaining majority;

7. The offer to settle as described above, including the amount designated for attorney's fees, is fair and appropriate to the plaintiffs under the circumstances and should be approved.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

That the settlement as described above is approved and that plaintiffs' claims against the defendant Saint Francis Hospital, Inc. arising out of or resulting from any care or treatment received by the minor plaintiff at defendant Saint Francis Hospital, Inc. or lack thereof are forever barred.

S/John L. Woodson  
U. S. Magistrate  
UNITED STATES MAGISTRATE



87-C-285-B. Both applications for leave to appeal will be considered together in this order.

An interlocutory appeal from an order of the Bankruptcy Court may only be taken "with leave of court." 28 U.S.C. §158(a). Section 158 is silent as to what standard or consideration should be employed by the district court in determining whether leave to appeal should be granted.

Because bankruptcy appeals are to be taken in the same manner as appeals in civil matters, generally, the court finds the statutory provision governing interlocutory appeals from district courts to appellate courts should be applied. 28 U.S.C. §1292(b). See In re Johns-Manville Corp., 47 B.R. 957 (S.D.N.Y. 1985). In general, exceptional circumstances must be present to warrant allowing an interlocutory appeal. Coopers & Lybrand v. Livesay, 437 U.S. 463 (1977). 28 U.S.C. §1292(b) mandates three conditions requisite to an interlocutory appeal: (1) the existence of a controlling question of law; which (2) would entail substantial grounds for differences of opinion; and (3) the resolution of which would materially advance the ultimate termination of the litigation. See also, In re Chandler, 66 B.R. 334, 336 (N.D.Ga. 1986).

The court finds the Defendants Saied have failed to satisfy any of the above conditions in Case No. 87-C-285-B, which seeks to appeal the bankruptcy order denying a jury trial. The issue raised here by the Defendants of the right to a jury trial in the instant preference action fails to satisfy conditions (1) and (2)

above. The great weight of authority supports the ruling by the Bankruptcy Court that the Defendants are not entitled to a jury trial on this preference action under 11 U.S.C. §547. See, Katchen v. Lundy, 382 U.S. 323, 336-338 (1966); In re Country Junction, Inc., 41 B.R. 425, 430 (W.D.Tex. 1984); In re Reda, Inc., 60 B.R. 178 (N.D.Ill. 1986); In re Rogers & Sons, Inc., 48 B.R. 683, 688 (Bkrtcy.E.D.Okla. 1985). The court finds the defendants have failed to show a substantial ground for differences of opinion as to their right to a jury trial and therefore the court is compelled to deny the motion for leave to appeal in Case No. 87-C-285-B.

Regarding the application for leave to appeal in Case No. 87-C-297-B, the court must examine the two issues presented on appeal against the conditions for allowing an interlocutory appeal as previously set forth. Defendants seek to appeal the order denying motion for summary judgment on two points. First, that the Bankruptcy Court erred in applying 11 U.S.C. §547(c)(2) as it appeared prior to enactment of the bankruptcy amendments and Federal Judgeship Act of 1984, P.L. 98/353. Defendants argue that if the amended version of 11 U.S.C. §545(c)(2) is applied in the instant case, that they would have a complete defense to the preference action. The question presented here is whether the filing date of the bankruptcy case or the filing date of the preference action controls which version of 11 U.S.C. §547(c)(2) is to be applied in this preference case.

The 1984 Act was enacted July 10, 1984. Section 553(a) of Title 3 of the 1984 Act provides:

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The period of ninety days after July 10, 1984, expired October 8, 1984, which was a holiday, and thus the effective date as provided above is October 9, 1984. The instant preference action was filed on October 3, 1985, and the bankruptcy case was filed on September 24, 1984. The Defendants urge that the time of the filing of the preference case controls which version of §547(c)(2) should apply. The Bankruptcy Court below adopted the time of the filing of the bankruptcy case as controlling the law to be applied in the preference case. The court has reviewed the Bankruptcy Court's authority and reasoning for the effective date of the 1984 amendments to §547(c) and finds that it should control. The Defendants argue that the term "cases" used in §553(a) of the 1984 amendments includes not only cases under Title 11; but also adversarial "civil proceedings." For purposes of this application, the court agrees with the interpretation of the term "cases" as decided below by the Bankruptcy Court which states:

"There is nothing much clearer in the Code than the dichotomy which it creates between 'cases' and 'civil proceeding'. The jurisdictional provisions found in 28 U.S.C. §1334, which was added by the 1984 Amendments, provide for 'original and exclusive jurisdiction of all cases under Title 11,' and 'original but not exclusive jurisdiction of all civil proceedings arising under Title 11, or arising in or related to cases under Title 11.' (emphasis supplied) It is clear that the present

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"Moreover, to interpret §553(a) of the 1984 Amendments as the defendants urge us, would require the Court to conclude that the results in two preference actions filed in the same bankruptcy proceeding, similar in all respects would be determined by the application of different legal standards because of a trustee's decision to file the complaints on separate dates. This Court refuses to draw such an illogical conclusion. Therefore, this Court, in accordance with the majority of other courts which have considered this issue, holds that the 45-day rule is applicable to preference actions filed after October 8, 1984 but which relate to bankruptcy cases which were pending on that date."

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Defendants contend that a number of recent cases support the contrary view that the time of filing of the preference case should control the law to be applied, citing Lellock v. Prudential Insurance Co. of America, 811 F.2d 186, 188 (3d Cir. 1987); In re Pierce, 809 F.2d 1356 (8th Cir. 1987); Wilson v. Harris Trust & Savings Co., 777 F.2d 1246 (7th Cir. 1985). Examination of these cases shows that the Defendants have failed to show the existence of a controlling question of law which entails substantial grounds for differences of opinion. In the

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The court finds that the Defendants have failed to articulate substantial grounds for differences of opinion as to which version of §547(c)(2) should apply and therefore the court

will deny leave to appeal the Bankruptcy Court's interlocutory order.

Additionally, the Defendants seek to appeal alleged due process claims asserting that they were not accorded notices as mandated by Title 11 of the United States Code and the Bankruptcy Rules. The court finds that the Defendants' alleged due process violation does not constitute circumstances that are extraordinary enough to warrant an interlocutory appeal. See, In re Den-Col Cartage & Distribution, Inc., 20 B.R. 645 (D.C.Colo. 1982). For this reason, the motion for leave to appeal on the issue of the due process claim is denied. The court therefore denies leave to appeal in Case No. 87-C-285 and 87-C-297-B. The court finds that the emergency application for stay of proceedings pending appeal in 87-C-297 is moot.

IT IS SO ORDERED this 2nd day of June, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

AUTOMATION TECHNIQUES, INC., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
NOW PRECISION CO., LTD. and )  
HYOSUNG CORPORATION, )  
 )  
Defendants. )

Case No. 86-C-893 E

ORDER

On the 27th day of May, 1987, the above entitled cause comes on for hearing upon plaintiff's Motion for Default Judgment.

The Court finds that it has jurisdiction of both the subject matter and the parties to the lawsuit; that the defendants, Now Precision Co., Ltd., and Hyosung Corporation, having been duly and properly served, failed to plead or otherwise defend and are in default; that on March 16, 1987, the Clerk of the Court entered a Default Judgment against said defendants, and each of them.

The Court further finds that the plaintiff is entitled to a money judgment in the sum of One Million Three Hundred Fifty-three Thousand, Eight Hundred Seventy-nine Dollars (\$1,353,879.00) against the above named defendants, jointly and severally.

IT IS THEREFORE ORDERED pursuant to Rule 55(b) of Federal Rules of Civil Procedure that the defendants, Now

Precision Co., Ltd., and Hyosung Corporation, and each of them, are in default.

IT IS FURTHER ORDERED that the plaintiff, Automation Techniques, Inc., be, and hereby is awarded judgment against Now Precision Co., Ltd., and Hyosung Corporation, jointly and severally, in the sum of One Million Three Hundred Fifty-three Thousand, Eight Hundred Seventy-nine Dollars (\$1,353,879.00).

IT IS FURTHER ORDERED that plaintiff, Automation Techniques, Inc., be awarded a reasonable attorneys fee to be paid by the said defendants in a sum to be determined by this Court upon written application and itemization of services rendered.

DATED this 2nd day of June, 1987.

**BY JAMES O. ELLISON**

United States District Judge

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JUN 2 1987

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

In re	)	
	)	
REPUBLIC FINANCIAL	)	
CORPORATION, an Oklahoma	)	Bankruptcy Case No. 84-01460
corporation,	)	(Chapter 11)
	)	
Debtor.	)	
	)	
R. DOBIE LANGENKAMP,	)	
Successor Trustee,	)	
	)	
Plaintiff,	)	Adversary No. 85-0304
	)	
v.	)	
	)	
KENNETH D. and MARY L. MOORE,	)	Case No.87-C-399-B
	)	Case No.87-C-400-B
Defendants.	)	

ORDER

These related cases come before the Court on applications for leave to appeal interlocutory orders of the Bankruptcy Court for the Northern District of Oklahoma. The Court finds that these related cases raise identical questions to those disposed in today's order in 87-C-285-B and 87-C-297-B.

For the reasons set forth in that Order and incorporated by reference herein, the application for leave to appeal interlocutory orders of the Bankruptcy Court for the Northern District of Oklahoma in Case 87-C-399-B and 87-C-400-B, are denied.

IT IS SO ORDERED, this 1st day of June, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

JUN 2 1987

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

REPUBLIC FINANCIAL CORPORATION, an Oklahoma corporation,	)	Case No. 84-01460
	)	(Chapter 11)
	)	
Debtor.	)	
	)	
R. DOBIE LANGENKAMP, Successor Trustee,	)	Adversary No. 85-0302
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
KEMAL SAIED and CONSTANCE G. SAIED,	)	No. 87-C-285-B
	)	
	)	
Defendants.	)	No. 87-C-297-B

O R D E R

This matter comes before the Court on the application for leave to appeal from an interlocutory order of the Bankruptcy Court and emergency application for stay of proceedings pending appeal of the Defendants, Kemal Saied and Constance G. Saied. For the reasons set forth below, leave to appeal the interlocutory orders is denied and the application for stay of proceeding is also denied.

The Defendants Saied filed application for leave to appeal an interlocutory order denying a motion for summary judgment on April 23, 1987, pursuant to 28 U.S.C. §158(a) and Bankruptcy Rule 8003. The appeal of the order denying the motion for summary judgment was docketed here as 87-C-297-B. On February 27, 1987, the Defendants Saied filed an application for leave to appeal an interlocutory order denying jury trial, docketed here as Case No.

87-C-285-B. Both applications for leave to appeal will be considered together in this order.

An interlocutory appeal from an order of the Bankruptcy Court may only be taken "with leave of court." 28 U.S.C. §158(a). Section 158 is silent as to what standard or consideration should be employed by the district court in determining whether leave to appeal should be granted.

Because bankruptcy appeals are to be taken in the same manner as appeals in civil matters, generally, the court finds the statutory provision governing interlocutory appeals from district courts to appellate courts should be applied. 28 U.S.C. §1292(b). See In re Johns-Manville Corp., 47 B.R. 957 (S.D.N.Y. 1985). In general, exceptional circumstances must be present to warrant allowing an interlocutory appeal. Coopers & Lybrand v. Livesay, 437 U.S. 463 (1977). 28 U.S.C. §1292(b) mandates three conditions requisite to an interlocutory appeal: (1) the existence of a controlling question of law; which (2) would entail substantial grounds for differences of opinion; and (3) the resolution of which would materially advance the ultimate termination of the litigation. See also, In re Chandler, 66 B.R. 334, 336 (N.D.Ga. 1986).

The court finds the Defendants Saied have failed to satisfy any of the above conditions in Case No. 87-C-285-B, which seeks to appeal the bankruptcy order denying a jury trial. The issue raised here by the Defendants of the right to a jury trial in the instant preference action fails to satisfy conditions (1) and (2)

above. The great weight of authority supports the ruling by the Bankruptcy Court that the Defendants are not entitled to a jury trial on this preference action under 11 U.S.C. §547. See, Katchen v. Lundy, 382 U.S. 323, 336-338 (1966); In re Country Junction, Inc., 41 B.R. 425, 430 (W.D.Tex. 1984); In re Reda, Inc., 60 B.R. 178 (N.D.Ill. 1986); In re Rogers & Sons, Inc., 48 B.R. 683, 688 (Bkrtcy.E.D.Okla. 1985). The court finds the defendants have failed to show a substantial ground for differences of opinion as to their right to a jury trial and therefore the court is compelled to deny the motion for leave to appeal in Case No. 87-C-285-B.

Regarding the application for leave to appeal in Case No. 87-C-297-B, the court must examine the two issues presented on appeal against the conditions for allowing an interlocutory appeal as previously set forth. Defendants seek to appeal the order denying motion for summary judgment on two points. First, that the Bankruptcy Court erred in applying 11 U.S.C. §547(c)(2) as it appeared prior to enactment of the bankruptcy amendments and Federal Judgeship Act of 1984, P.L. 98/353. Defendants argue that if the amended version of 11 U.S.C. §545(c)(2) is applied in the instant case, that they would have a complete defense to the preference action. The question presented here is whether the filing date of the bankruptcy case or the filing date of the preference action controls which version of 11 U.S.C. §547(c)(2) is to be applied in this preference case.

The 1984 Act was enacted July 10, 1984. Section 553(a) of Title 3 of the 1984 Act provides:

"Except as otherwise provided in this section, the amendments made by this title shall become effective to cases filed ninety days after the date of enactment of this act."

The period of ninety days after July 10, 1984, expired October 8, 1984, which was a holiday, and thus the effective date as provided above is October 9, 1984. The instant preference action was filed on October 3, 1985, and the bankruptcy case was filed on September 24, 1984. The Defendants urge that the time of the filing of the preference case controls which version of §547(c)(2) should apply. The Bankruptcy Court below adopted the time of the filing of the bankruptcy case as controlling the law to be applied in the preference case. The court has reviewed the Bankruptcy Court's authority and reasoning for the effective date of the 1984 amendments to §547(c) and finds that it should control. The Defendants argue that the term "cases" used in §553(a) of the 1984 amendments includes not only cases under Title 11; but also adversarial "civil proceedings." For purposes of this application, the court agrees with the interpretation of the term "cases" as decided below by the Bankruptcy Court which states:

"There is nothing much clearer in the Code than the dichotomy which it creates between 'cases' and 'civil proceeding'. The jurisdictional provisions found in 28 U.S.C. §1334, which was added by the 1984 Amendments, provide for 'original and exclusive jurisdiction of all cases under Title 11,' and 'original but not exclusive jurisdiction of all civil proceedings arising under Title 11, or arising in or related to cases under Title 11.' (emphasis supplied) It is clear that the present

action is a 'civil proceeding' arising under Title 11 and not a 'case' under Title 11. . . .

"Moreover, to interpret §553(a) of the 1984 Amendments as the defendants urge us, would require the Court to conclude that the results in two preference actions filed in the same bankruptcy proceeding, similar in all respects would be determined by the application of different legal standards because of a trustee's decision to file the complaints on separate dates. This Court refuses to draw such an illogical conclusion. Therefore, this Court, in accordance with the majority of other courts which have considered this issue, holds that the 45-day rule is applicable to preference actions filed after October 8, 1984 but which relate to bankruptcy cases which were pending on that date."

In re Chase & Sanborn Corp., 51 B.R. 736, 737-738 (Bkrtcy. S.D. Fla. 1985); In re Auto-Pak, Inc., 55 B.R. 403, 404, footnote 1 (Bkrtcy. D.D.C.1983); In re Matter of Almarc Manufacturing, Inc., 52 B.R. 582, 583 (Bkrtcy. N.D. Ill. 1985); Matter of Tressler, 771 F.2d 791, 792 (3rd Cir. 1985); Matter of Lorandos, 58 B.R. 519-522 (Bkrtcy.S.D. Ohio 1986); In re Demetralis, 57 B.R. 425, 427, footnote 1 (Bkrtcy. D. Minn. 1985); Matter of Lemanski, 56 B.R. 981, 984, footnote 3 (Bkrtcy. W.D.Wisc. 1986).

Defendants contend that a number of recent cases support the contrary view that the time of filing of the preference case should control the law to be applied, citing Lellock v. Prudential Insurance Co. of America, 811 F.2d 186, 188 (3d Cir. 1987); In re Pierce, 809 F.2d 1356 (8th Cir. 1987); Wilson v. Harris Trust & Savings Co, 777 F.2d 1246 (7th Cir. 1985). Examination of these cases shows that the Defendants have failed to show the existence of a controlling question of law which entails substantial grounds for differences of opinion. In the

Lellock case, supra, the Third Circuit applied an amendment to the Bankruptcy Act in a case where the bankruptcy case had been filed prior to the 1984 Act and the contested matter filed after the effective date of the 1984 Act. In so doing, however, the court noted that the amendment to the section as applied was not substantive in nature and the results in the case would have been the same under either version. The court does not agree with the Defendants' contention that the Lellock decision essentially reversed Matter of Tressler, 771 F.2d 791, 792 (3d Cir. 1985) as cited below by the Bankruptcy Court. The court also finds the Defendants' citation to Wilson v. Harris Trust & Savings Co., 777 F.2d 1246 (7th Cir. 1985) as unpersuasive. Defendants urge that the Wilson case did not look to the date of the bankruptcy, but looked to the date of the District Court case to determine which law should apply. Unlike the instant matter, Wilson sought retroactive application of the 1984 amendment to the Bankruptcy Act. In denying retroactive application, the court stated:

"Congress expressly stated that subsection (b) was to be applied only to cases filed ninety days after enactment. Subsection (b) was enacted July 10, 1984, long after this case had been in litigation." (Emphasis supplied).

The term "this case" in Wilson, could refer to either the bankruptcy case filed in 1981 or the civil proceeding filed in January 1982, lending little support to Defendants' argument.

The court finds that the Defendants have failed to articulate substantial grounds for differences of opinion as to which version of §547(c)(2) should apply and therefore the court

will deny leave to appeal the Bankruptcy Court's interlocutory order.

Additionally, the Defendants seek to appeal alleged due process claims asserting that they were not accorded notices as mandated by Title 11 of the United States Code and the Bankruptcy Rules. The court finds that the Defendants' alleged due process violation does not constitute circumstances that are extraordinary enough to warrant an interlocutory appeal. See, In re Den-Col Cartage & Distribution, Inc., 20 B.R. 645 (D.C.Colo. 1982). For this reason, the motion for leave to appeal on the issue of the due process claim is denied. The court therefore denies leave to appeal in Case No. 87-C-285 and 87-C-297-B. The court finds that the emergency application for stay of proceedings pending appeal in 87-C-297 is moot.

IT IS SO ORDERED this 2nd day of June, 1987.

  
THOMAS R. BRETT  
UNITED STATES DISTRICT JUDGE

FILED

JUN -1 1987

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JEFFREY SCOTT BROWN and )  
COMMERCIAL UNION INSURANCE )  
COMPANY, INC. )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
DUAL DRILLING COMPANY, )  
A Texas Corporation, )  
 )  
Defendant. )

NO. 86-C-494-B

ORDER OF DISMISSAL WITH PREJUDICE

UPON application of DUAL DRILLING COMPANY, and for good cause shown,

IT IS ORDERED, ADJUDGED AND DECREED that the above styled and numbered case by JEFFREY SCOTT BROWN and COMMERCIAL UNION against DUAL DRILLING COMPANY is hereby dismissed with prejudice and DUAL DRILLING COMPANY'S claim against plaintiffs is dismissed with prejudice.

  
JUDGE OF THE DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

1987

JACK C. SILVER, CLERK  
U.S. DISTRICT COURT

CARLIN G. LEWIS and KEN  
BENNETT, Trustees of Comtel  
Industries, Inc. Shareholders'  
Liquidating Trust,

Plaintiffs,

vs.

SATELCO, INC., Successor in  
Interest of TMC LONG DISTANCE,  
INC., by merger (formerly  
TELEMARKETING COMMUNICATIONS  
OF AMERICA, INC.),

Defendant.

Case No. 86-C-1167-C

JOINT STIPULATION OF DISMISSAL

COME NOW the above-named Plaintiffs and Defendant, and by and through their respective attorneys, and pursuant to Federal Rule of Civil Procedure 41(a)(1) and (c) stipulate to the dismissal, with prejudice, of the above-captioned case and the claims, either asserted or unasserted, arising out of the transactions forming the subject matter of the action. This voluntary dismissal is in consideration of and made by reason of the Settlement Agreement entered into among and between these respective parties. Each party hereto stipulates to the Court that each respective party should bear their own attorney fees and costs incurred in connection with this action.

WHEREFORE, the parties through their respective counsel set their hands with the intent to be so bound.

SATELCO, INC.

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CARLIN G. LEWIS and KEN  
BENNETT, Trustees of Comtel  
Industries, Inc., Shareholders'  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JUN 1 1987

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

STATE FARM MUTUAL AUTOMOBILE )  
INSURANCE COMPANY, an Illinois )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DAIRYLAND INSURANCE COMPANY, )  
a foreign corporation, )  
 )  
Defendant. )

No. 87-C-82-BT

ADMINISTRATIVE CLOSING ORDER

The Parties having agreed to a stay of this case pending the resolution of the existing appeal before the Oklahoma Supreme Court in David R. Young vs. Mid-Continent Casualty Co., No. 65962, it is hereby ordered that the Clerk administratively terminate this action in his record, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

IF, within 60 days of the final adjudication of the above referenced appeal before the Oklahoma Supreme Court, the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 15<sup>th</sup> day of June, 1987.

  
THOMAS R. BRETT, JUDGE